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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Mobile Satellite-Based)
Communications Services by)
Crescomm Transmission Services, Inc. and)
Qualcomm Incorporated)

FEDERAL COMMUNICATIONS COMMISSION
RM-7912 OFFICE OF SECRETARY

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To: The Chief, International Bureau and
The Chief, Office of Engineering and Technology

COMSAT CORPORATION
REPLY ON PETITION FOR RECONSIDERATION AND CLARIFICATION

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WILEY, REIN & FIELDING

July 5, 1996

File of Gordon
Oct 4, 1995

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**COMSAT CORPORATION
REPLY ON PETITION FOR RECONSIDERATION AND CLARIFICATION**

COMSAT Corporation ("COMSAT"), by its COMSAT International Communications division, hereby replies to the Reply (filed June 24, 1996) by Maritime Telecommunications Network, Inc. ("MTN") to COMSAT Corporation's Petition for Reconsideration and Clarification of the *Order* in the above-captioned proceeding.¹

In its Petition, COMSAT asked the Commission to reconsider the *Order* in the following respects:

1. Extend the conditional waivers for the provision of maritime mobile satellite service in the 4/6 GHz and 12/14 GHz bands to and from shipboard stations to all entities willing to accept the appropriate conditions, rather than limited to only two entities specified by name in the *Order*;

¹ DA 96-650 (released Apr. 29, 1996) ("*Order*").

2. Recognize that applicants may demonstrate their compliance with the noninterference requirement through means appropriate to the unique nature of maritime mobile stations; and
3. Clarify the extraterritorial scope of the noninterference requirements established by the *Order*.

As MTN's Reply addressed only the first two issues, COMSAT's reply is also limited to those issues.

I. MTN DOES NOT DISPUTE THAT THE WAIVERS GRANTED BY THE ORDER SHOULD BE AVAILABLE TO SIMILARLY SITUATED PARTIES

COMSAT's petition urged the Commission to clarify that the waivers granted in the *Order* should be equally available to any entity able to comply with the appropriate conditions. *See, e.g., Melody Music, Inc. v. Federal Communications Commission*, 345 F.2d 730 (D.C. Cir. 1965). It is important to note that MTN does not contend that its existing waiver is in any way exclusive, or that other entities should not be allowed to obtain a similar waiver.

Although MTN does not object to the general principle of equal treatment, it objects to what it characterizes as a request for a blanket waiver, insisting that each waiver should be considered on a case-by-case basis and that such a blanket waiver is "contrary to all principles of sound agency decision-making." MTN Reply at 2. MTN misses the point. In the *Order*, the Commission granted waivers to two named entities to provide maritime mobile satellite service in C-Band, subject to certain conditions. COMSAT is requesting simply that the Commission affirm that a similarly situated

entity will receive the same waiver upon grant of an appropriate Part 25 application that complies with the appropriate conditions. The requested relief in no way would relieve an applicant from making the appropriate interference showings and other matters required by Part 25 of the rules; however, it would simply relieve an applicant of the burden of making a separate request for a "me-too" waiver that would cover issues redundant with those in the application and that would otherwise give opponents an additional opportunity to try to forestall competition.

II. MTN AGREES THAT THE COMMISSION SHOULD ALLOW APPLICANTS FLEXIBILITY IN DEMONSTRATING THEIR COMPLIANCE WITH THE NONINTERFERENCE REQUIREMENTS

COMSAT's Petition asked the Commission to clarify that applicants should be allowed to demonstrate their compliance with the noninterference requirement imposed by the *Order* in a manner that recognizes and accommodates the unique characteristics of maritime mobile earth stations. The Petition explained that the *Order's* reliance on ITU-R IS.847.1 to establish a 100 kilometer minimum separation distance to avoid interference, while understandable, is not necessarily applicable because the differences between fixed and maritime mobile transmitting stations may warrant lesser separation distances. Indeed, COMSAT's extensive experimental experience demonstrates that operations even closer to land than 100 km do not create harmful interference to terrestrial facilities.

MTN's reply agrees that this aspect of COMSAT's Petition is "well-founded" and that the Commission should affirm that applicants should have flexibility to

demonstrate noninterference. MTN Reply at 4. Thus, MTN agrees with COMSAT that a rigorous application of the 100 kilometer distance is inappropriate, and that applicants should be able to demonstrate their noninterference in ways consistent with maritime operations.

III. CONCLUSION

For the foregoing reasons, COMSAT Corporation respectfully requests the Commission (1) to make generally available the waiver granted by the *Order* for

wideband maritime mobile satellite communications to any party willing to accept the appropriate conditions; (2) to clarify that applicants may establish their compliance with the noninterference obligation in a manner that accommodates the unique nature of maritime mobile communications; and (3) to clarify the extraterritorial scope of the interference restriction.

Respectfully submitted,

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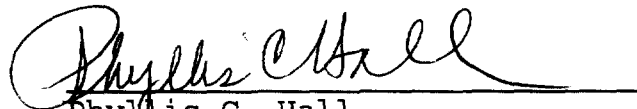
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July 5, 1996

CERTIFICATE OF SERVICE

I, Phyllis C. Hall, a legal secretary at the offices of Wiley, Rein & Fielding, hereby certify that on this 5th day of July 1996, I caused copies of the foregoing "Comsat Corporation Reply on Petition for Reconsideration and Clarification" to be sent by first class U.S. mail, postage prepaid, to each of the parties listed on the attached service list.


Phyllis C. Hall

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